

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JAMES MALIK PAGE,

Plaintiff,

v.

**9:09-CV-68
(FJS/ATB)**

**SYED HAIDER-SHAH, Physician, Marcy
Correctional Facility,**

Defendant.

APPEARANCES

OF COUNSEL

JAMES MALIK PAGE

Poughkeepsie, New York 12601
Plaintiff *pro se*

**OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL**

The Capitol
Albany, New York 12224
Attorneys for Defendant

ROGER W. KINSEY, AAG

SCULLIN, Senior Judge

ORDER

In a Report-Recommendation dated March 2, 2010, Magistrate Judge Baxter recommended that the Court grant Defendant's motion to dismiss the complaint and dismiss Plaintiff's complaint in its entirety for failure to exhaust his administrative remedies. *See* Dkt. No. 18. Plaintiff filed objections to the Report-Recommendation, essentially raising the same arguments that he presented to Magistrate Judge Baxter and failing to address why the Court should excuse his failure to exhaust his administrative remedies. *See* Dkt. No. 22.

When a party files specific objections to a magistrate judge's report-recommendation, the district court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). However, when a party files "[g]eneral or conclusory objections or objections which merely recite the same arguments [that he presented] to the magistrate judge," the court reviews those recommendations for clear error. *O'Diah v. Mawhir*, No. 9:08-CV-322, 2011 WL 933846, *1 (N.D.N.Y. Mar. 16, 2011) (citations and footnote omitted). After the appropriate review, "the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

Despite the conclusory nature of Plaintiff's objections, the Court has reviewed the record *de novo* in light of the issues that Plaintiff raised in those objections. Having completed that review, the Court finds his objections to be without merit.

Accordingly, the Court hereby

ORDERS that Magistrate Judge Baxter's March 2, 2010 Report-Recommendation is **ACCEPTED** in its entirety for the reasons stated therein; and the Court further

ORDERS that Defendant's motion to dismiss is **GRANTED** and Plaintiff's complaint is **DISMISSED**;¹ and the Court further

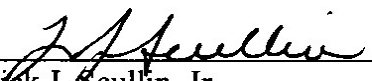
ORDERS that the Clerk of the Court shall enter judgment in favor of Defendant and

¹ The Court notes that, after reviewing the entire record in this case, it agrees with Magistrate Judge Baxter's assessment, that, if the Court were to review the complaint on its merits, based on Plaintiff's allegations, it is highly unlikely that he would have been successful on his deliberate indifference claims.

close this case.

IT IS SO ORDERED.

Dated: March 31, 2011
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge